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November 5, 2015

**ECF Filed**

The Honorable John Gleeson  
United States District Judge  
U. S. District Courthouse for E.D.N.Y.  
225 Cadman Plaza East  
Brooklyn, N.Y. 11201

***Re: U.S. v. Lorenzo Gaston, Dkt. No. 12 CR 208-01 (JG)***  
***Defense Requests a Variant Sentence of 15 Years Incarceration under 18***  
***U.S.C. §3553(a).***

Dear Judge Gleeson:

This letter memorandum is submitted on behalf of Mr. Lorenzo Gaston who is scheduled for sentencing before Your Honor on Monday, November 9, 2015 at 10:30 a.m. For reasons argued in this letter the defense respectfully requests a variant sentence of 15 years' incarceration.

By way of background, Mr. Gaston originally pleaded guilty on April 5, 2012, without a plea agreement, to a one-count indictment under Dkt. No. 12 CR. 208 (JG) which charges him with possessing with the intent to distribute 28 grams or more of cocaine base in violation of Title 21 U.S.C. §841(b)(1)(B). This offense carries a prison range of 5 to 40 years. On December 23, 2013 Mr. Gaston pleaded guilty to additional charges, in accordance to a plea agreement, under a superseding information Docket No. 12 CR. 208 (S-1)-01 (JG) which charges him with one count of conspiracy to possess with the intent to distribute 280 grams or more of

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cocaine base in violation of Title 21 U.S.C. §841 (b)(1)(A) and one count of unlawful use, brandishing, and discharge of a firearm in violation of Title 18 U.S.C. §§924(c) (1)(A)(i), 924(c) (1)(A)(ii) & 924(c) (1)(A)(iii) . These two offenses carry prison ranges respectively of 10 years to life and 10 years consecutively.

At sentencing the government will not oppose a motion by the Mr. Gaston to withdraw his admission to the most serious conduct under 924(c) namely, brandishing and discharging a firearm in connection with drug trafficking and violent crimes, but the remainder of his plea to this offense, possession of a firearm in connection to drug trafficking and violent crimes, will remain in effect. This will reduce mandatory consecutive prison sentence for the firearm conviction from 10 years to 5 years. Accordingly, under these circumstances, Mr. Gaston's minimum mandatory prison sentence is 15 years based on the following statutory restraints: 10 years for the drug trafficking offense followed by 5 years consecutive for the firearm offense.

According to the PSR, Mr. Gaston's guidelines calculation for the (b)(1)(A) drug trafficking offense is Level 29 and Criminal History Category V which under the Sentencing Table is a prison range of 140 – 175 months. PSR ¶¶ 10 – 53. Should Your Honor accept the unopposed defense motion, which reduces reduce the consecutive prison sentence of the 924(c) offense, Mr. Gaston's total guidelines prison rang will be 200 – 235 months: 140 – 175 months for the drug offense followed by 60 months for the firearm offense.

In light of this hefty prison range, Mr. Gaston will not be released from prison until he is 40 years of age, which will be in the year 2025. Currently, he is 31 and has been detained since age 27. In other words, if Your Honor were to grant the defense request of a 15 year sentence,

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Mr. Gaston will serve a term of imprisonment from ages 27 to 40. Under these circumstances, we believe 15 years' incarceration serves the statutory purposes of 18 U.S.C. §3553(a).

**Mr. Gaston's Personal History Includes a Life Long Struggle with Drug Addiction since Infancy and a Dysfunctional Family Life.**

In support of our request for a variant sentence under 3553(a) we bring to the Court's attention that Mr. Gaston was born not only poor, but more importantly, extremely disadvantaged. As reported in the PSR, he was "... *born addicted to cocaine*" because of his mother's drug addiction while pregnant with him, ¶70. His addiction at infancy undoubtedly ingrained in him a permanent proclivity for intoxication for not much later in his young life he began to drink alcohol starting at age 13 or 14, ¶80, and then smoked marijuana "... *on an almost a daily basis since age 15*" id. He claims to have smoked "*10 blunts or 1 ounce ... [of marijuana] per day*" at this time. Id. Since age 20, furthermore, Mr. Gaston has smoked crack cocaine mixing it in with marijuana. He estimates smoking 2 to 3 grams of crack daily and supported his habit by drug dealing. On the date of his arrest, December 29, 2011, 2011, he had consumed this drug. ¶80.

Many of his drug arrests reported in the PSR are a result of his addiction. While incarcerated or under parole supervision, Mr. Gaston has attempted drug rehabilitation, but he has always failed. ¶81. As a consequence of his addiction, Mr. Gaston suffers from depression. ¶77. For instance, while incarcerated at Riker's Island, between 2007 and 2009, he was prescribed the anti-depressants Prozac and Trazadone. Id. He has been referred to psychiatrists or therapists since age 13.

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As reported in the PSR by his only surviving grandparent, Ms. Ruby Dukes, and his girlfriend, Ms. Jeanette Cribbs, Mr. Gaston was raised without his mother or father because of their own struggles with drug addiction in which they served extensive periods of incarceration. His maternal grandmother, Maddie Gaston, accepted the responsibility of raising him and his half-siblings. ¶71. Based on the PSR, however, the family was dysfunctional because the Maddie Gaston drank alcohol excessively and would beat the children. *Id.* Beatings were so severe that the children was placed in foster care temporarily. *id.* She died when he was only 14 years old. *Id.* As reported in Ms. Dukes' letter to the Court attached hereto, Mr. Gaston took care of her when she was too ill to care of herself. She also professes her love for him and says unequivocally that notwithstanding his terrible upbringing he is a caring and loving person. We expect both Ms. Dukes and Ms. Cribbs to be present at his sentencing hearing.

While these facts about his personal life are not recounted for sympathy, nor to excuse his life of crime, they certainly put in context the reasons for his drug addiction and drug dealing. It is a cliché to say that life is unfair, but like many clichés they describe a reality about people. Mr. Gaston is a drug addict and chose a life of drug dealing because of his incredibly unfair life. Born addicted to cocaine is not hurdle easily overcome by anyone, especially by one who is poor, uneducated and without marketable skills. We ask, therefore, that Your Honor grant this request and allow Mr. Gaston an opportunity to return to civilian life when he reaches 40 years of age, an event that will occur should the Court sentence him to 15 years incarceration.

Finally, we ask Your Honor to credit Mr. Gaston from December 29, 2011, which was the date he was arrested by the NYPD and detained at Riker's Island before being brought to this

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district to face similar charges. Also, we ask that Your Honor recommend to BOP to house Mr. Gaston as close as possible to the NYC Metropolitan area so that his family may visit him.

Thank you.

Respectfully submitted,

s/ Richard Palma

Richard Palma (Bar No. RP 4441)

Copies: AUSA Matthew Amatruda (via email)  
USPO Darcy Zavatsky (via email)

## **LETTER OF MS. RUBY DUKES**

Dear Judge Gleeson

9/12/15

My name is Ruby Dukes. I am the grandmother of Lorenzo Gators. I am writing this letter to help you better understand my grandson. Lorenzo was born in Edgemere projects, he was born into a life with a mother that was on crack and she also was in and out the prison system. His father was also in and out of the prison system. His mother and father was in and out of prison all Lorenzo's life.

Lorenzo never had good role models.

Myself and his mother's mother did our best to care for him. I cried many nights because this child did not have a mother or father in his life. During his life he always was caring and a wonderful child even through his terrible circumstances.

There was a time I was sick, as Lorenzo was a adult, he cared for me by washing me, changing my clothes, go to the store to buy me groceries. Lorenzo has a wonderful heart, and caring spirit. I pray to god that you have mercy on my grandson because he has a family that love him dearly.

Sincerely  
Ruby Dukes